

Notice of Allowability

Application No.

10/500,941

Examiner

Marsha M. Tsay

Applicant(s)

CLIMENT-JOHANSSON ET AL.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to response received October 31, 2006.
2. ☒ The allowed claim(s) is/are 15.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

The restriction requirement between Groups XLIII and XLIV-XLVIII, as set forth in the Office action mailed on May 31, 2006, has been reconsidered in view of Applicants' election with traverse of Group XLIII with respect to Groups XLIV-XLVIII, the grounds for traversal with respect to Groups XLIV-XLVIII, and the allowability of the claim to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn with respect to Groups XLIII and XLIV-XLVIII.**

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the claims:

Please cancel claims 1-14, 16-23.

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The following is an examiner's statement of reasons for allowance: claim 15 is drawn to a method of identifying an agent that modulates the formation of a FOXC2 protein complex by measuring the formation of a complex between a first polypeptide (FOXC2 amino acid sequence SEQ ID NO: 1) and a second polypeptide (SEQ ID NOS: 2, 3, 4, 5, 6, 7). The instant invention uses a protein complex consisting of FOXC2 (SEQ ID NO: 1) and a protein chosen from p621 (SEQ ID NO: 2), NOLP (SEQ ID NO: 2), HSC71 (SEQ ID NO: 3), FTP3 (SEQ ID NO: 4), CLH1 (SEQ ID NO: 5), and AKAP149 (SEQ ID NO: 6). The method is used to identify agents which can be useful in the treatment of medical conditions, i.e. obesity, hypertriglyceridemia, diet-induced resistance, and/or type 2 diabetes, which can be treated by increased FOXC2 activity and anorexia, putatively treatable by decreased FOXC2 activity. SEQ ID NOS: 2-7 are seven FOXC2 interacting proteins that control FOXC2 expression. Therefore, modulators identified by this method could indirectly control levels of FOXC2 expression.

The instant specification discloses that increased FOXC2 levels counteracts obesity symptoms. SEQ ID NO: 2-7 are seven FOXC2-interacting proteins that modulate the expression or activity of FOXC2. Consequently, the FOXC2 protein complex modulates FOXC2 expression and one would like to identify and/or find agents that disrupt FOXC2/SEQ ID NOS: 2-7 formation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim 15 is allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marsha M. Tsay whose telephone number is 571-272-2938. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Kathleen Kerr Bragdon can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 7, 2006

M. Monshi
MARYAM MONSHIPOURI, PH.D.
PRIMARY EXAMINER